

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 94003

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-147-93

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

Nevada State

Environmental

Commission

Classification [] Proposed [] Adopted By Agency [XX] Temporary [] Emergency []

Brief description of action: Petition 94003 (R-147-93) by the Nevada Division of Environmental Protection permanently amended NAC 445 by adding a new section establishing a decentralized program for the inspection and maintenance of motor vehicles in an enhanced mode in the Las Vegas Valley. This proposed regulation fulfills the requirements of the Clean Air Act as amended in 1990 and establishes a program which replaces the existing program for inspection of emissions from motor vehicles.

Authority citation other than 233B: NRS 445.620, 445.630 and 445.632 and section 20 of chapter 654, Statutes of Nevada 1993.

Notice date: October 4, October 13 and October 20, 1993.

Hearing date: November 4, 1993

Date of Adoption of Agency: November 4, 1993

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 94003
LCB R-147-93**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code 445.850 to 445.9491. The new section adopted under the aforementioned petition deals with enhanced vehicle engine emission inspection.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 94003 was noticed three (3) times: October 4, October 13 and October 20, 1993 in the Las Vegas Review and Reno Gazette-Journal newspapers. Public comment was solicited at a workshop conducted on October 21, 1993. An additional workshop was held on September 8, 1993 in Las Vegas. Comments received at the workshops dealt with whether the federally mandated program should be adopted in Nevada. Other comments were received dealing with the proposal that a decentralized program should be the sole form of program designed considered.

Public comment was received from the general public and affected businesses at the public hearing held on November 4, 1993. Comments were received from the Nevada Auto Emission Testers Assn., the Nevada Franchised Auto Dealers Assn, the Nevada Emission Testing Industry Coalition, U.S. EPA, the Nevada Department of Motor Vehicles and Public Safety (DMV&PS), and Jiffy Smog. Comments from the regulated businesses focused on technical modifications to petition 94003, including discussions on testing technology to be used, vehicle emission standards, and the exclusion of certain classes of vehicles. Other comments included the impact on business due to the separation of testing and repair, viability of using the existing I/M program framework for testing of vehicles, whether adequate dynamometer lanes can be established by the private sector and the adequacy of the air quality monitoring program in the Las Vegas Valley. The general public spoke to the Commission at the hearing. Comments were generally of a philosophical nature regarding whether the state should be imposing an vehicle emissions program.

A copy of hearing and workshop records is available through the Environmental Commission offices located in at 333 W. Nye Ln., Carson City, Nevada, 89710 or call 702-687-4670.

2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1.

Page 2 - SEC Information Statement - Petition 94003

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulations were adopted at the SEC hearing on November 4, 1993. Amendments were made to the regulations based on public comment.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

- a. The proposed additions to the Nevada Administrative Code may have impacts on existing providers of vehicle emission inspection services in the Las Vegas area. Some of the businesses may be able to participate in the inspection program, however the cost to individual stations to participate are estimated between \$ 100,000 to \$200,000 to capitalize each dynamometer lane.
- b. The proposed amendment may have a beneficial economic impact upon the public since the biennial test program may be less expensive to the consumer (motoring public) than an annual testing program. It is expected the program will be cost neutral to the consumer since the cost of the enhanced vehicle emission inspection program will be higher, which will be offset by testing only once every two years.

5. The estimated cost to the agency for enforcement of the proposed regulation.

There is no additional cost to the Division of Environmental Protection for enforcement of the proposed regulation. The implementing agency is the Nevada Department of Motor Vehicles & Public Safety. Increased costs are anticipated to acquire and maintain a computer system to support the program. The computer system cost will in the range of \$ 1,200,000 for acquisition and \$ 200,000 annually to maintain. Adequate resources exist within the I/M program accounts to sustain the start up of the modified program.

6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

There are no other state or government agency regulations which the proposed amendments duplicate.

CODIFIED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R-147-93

EXPLANATION--Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 445.620, 445.630 and 445.632 and 445.6305.

Section 1. Chapter 445 of NAC is hereby amended by adding thereto the provision set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *1. The commission hereby designates all areas with zip codes located within hydrographic area 212, as determined by the state engineer, which includes the Las Vegas Valley, and the area within the city limits of Boulder City as requiring a program for the biennial enhanced inspection of all used motor vehicles, except motorcycles, which:*

- (a) Are model year 1968 or later;*
- (b) Have a gross weight of less than 8500 pounds; and*
- (c) Are powered by any fuel, except diesel fuel.*

2. The program for enhanced inspection, which is to be established by the department in compliance with the federal requirements for an enhanced program as set forth in 40 C.F.R. Part 51, must provide for a decentralized test only network of inspection with persons who operate individual or multiple test only authorized inspection stations, as that network of inspection is described in 40 C.F.R. § 51.353.

3. The program for enhanced inspection required by this section must be in operation by January 1, 1995.

Sec. 3. *A program for the licensure of authorized inspection stations, authorized maintenance stations and persons qualified to install, repair and adjust devices for the control of emissions in motor vehicles is hereby established. The program, which is to be established by the department in compliance with the requirements of 40 C.F.R. Part 53.367, must include a procedure for reporting for authorized maintenance stations and persons qualified to install, repair and adjust devices for the control of emissions in motor vehicles.*

Sec. 4. *1. A motor vehicle powered by any type of fuel, except diesel fuel, which has a model year of 1968 or later and is subject to inspection pursuant to this section, must not have:*

(a) Smoke in its emissions from its exhaust or crankcase when the prescribed procedure for the testing is used.

(b) Carbon monoxide or hydrocarbon, or both, or oxides of nitrogen in its emissions from its exhaust in excess of the limits set forth in subsection 3 or 4.

2. The measurements required by subsection 1 must be made utilizing procedures which will be established by the department in compliance with Subpart S of 40 C.F.R. Part 51.

3. The following standards apply to light-duty motor vehicles in areas which require a program for enhanced inspection pursuant to section 2 of this regulation, effective January 1, 1995:

(a) Except as otherwise provided in paragraphs (b) and (c), for light-duty motor vehicles.

		Maximum	Maximum	Maximum
<u>Model Year</u>	<u>CO(GPM)</u>	<u>HC(GPM)</u>	<u>NOX(GPM)</u>	
1968-1972	120	7.00	7.0	
1973-1974	120	7.00	6.0	
1975-1976	65	3.00	6.0	
1977-1979	65	3.00	4.0	
1980	30	0.80	4.0	
1981-1982	30	0.80	2.0	
1983-1995 - excluding those vehicles which are designated as tier one vehicles	15	0.80	2.0	
1994 - tier one vehicles	10	0.60	1.5	

(b) For light-duty trucks which have a gross vehicle weight rating that is less than 6000 pounds:

		Maximum	Maximum	Maximum
<u>Model Year</u>	<u>CO(GPM)</u>	<u>HC(GPM)</u>	<u>NOX(GPM)</u>	
1968-1972	120	7.00	7.0	
1973-1974	120	7.00	6.0	
1975-1978	80	4.00	6.0	
1979-1983	70	3.40	4.5	
1984-1987	40	1.60	4.5	

PETITION 94003 WAS ADOPTED BY THE ENVIRONMENTAL COMMISSION ON NOVEMBER 4, 1993 AS A PERMANENT REGULATION. IT WAS REPEALED BY THE ENVIRONMENTAL COMMISSION ON MARCH 23, 1994 UPON FILING WITH THE SECRETARY OF STATE BY THE LEGISLATIVE COUNSEL BUREAU (LCB). THIS IS LCB FILE NO. 94003. IT WAS REPEALED ON JUNE 1, 1994.

<i>1988-1995</i>	<i>40</i>	<i>1.60</i>	<i>2.5</i>
------------------	-----------	-------------	------------

1994 - tier one vehicles:

<i>-less than or equal to 3750 LVW</i>	<i>10</i>	<i>0.60</i>	<i>1.5</i>
--	-----------	-------------	------------

<i>-greater than 3750 LVW</i>	<i>13</i>	<i>0.80</i>	<i>1.8</i>
-------------------------------	-----------	-------------	------------

(c) For light-duty trucks which have a gross vehicle weight rating that is 6000 pounds or more:

	<i>Maximum</i>	<i>Maximum</i>	<i>Maximum</i>
<u><i>Model Year</i></u>	<u><i>CO(GPM)</i></u>	<u><i>HC(GPM)</i></u>	<u><i>NOX(GPM)</i></u>

<i>1968-1972</i>	<i>120</i>	<i>7.00</i>	<i>7.0</i>
------------------	------------	-------------	------------

<i>1973-1974</i>	<i>120</i>	<i>7.00</i>	<i>6.0</i>
------------------	------------	-------------	------------

<i>1975-1978</i>	<i>80</i>	<i>4.00</i>	<i>6.0</i>
------------------	-----------	-------------	------------

<i>1979-1983</i>	<i>70</i>	<i>3.40</i>	<i>4.5</i>
------------------	-----------	-------------	------------

<i>1984-1987</i>	<i>40</i>	<i>1.60</i>	<i>4.5</i>
------------------	-----------	-------------	------------

<i>1988-1995</i>	<i>40</i>	<i>1.60</i>	<i>3.5</i>
------------------	-----------	-------------	------------

1994 - tier one vehicles:

<i>-less than or equal to 6750 LVW</i>	<i>13</i>	<i>0.80</i>	<i>1.8</i>
--	-----------	-------------	------------

<i>-greater than 6750 LVW</i>	<i>15</i>	<i>0.80</i>	<i>2.0</i>
-------------------------------	-----------	-------------	------------

PETITION 94003 WAS ADOPTED BY THE ENVIRONMENTAL COMMISSION ON NOVEMBER 4, 1993 AS A PERMANENT REGULATION. IT WAS FILED WITH THE SECRETARY OF STATE BY THE LEGISLATIVE COUNSEL BUREAU (LCB) ON MARCH 23, 1994 UPON FILING WITH THE SECRETARY OF STATE BY THE LEGISLATIVE COUNSEL BUREAU (LCB). THIS IS LCB FILE NO. 94003. IT BECAME EFFECTIVE ON JUNE 1, 1994.

4. *For the purposes of subsection 3, the emission of hydrocarbon in vehicles manufactured after 1993 which meet emission standards for tier one vehicles are measurements of non-methane hydrocarbons.*

5. *As used in this section:*

(a) *"CO" means carbon monoxide.*

(b) *"GPM" means grams per mile.*

(c) *"HC" means hydrocarbon.*

(d) *"LVW" means loaded vehicle weight.*

(e) *"NOX" means oxides of nitrogen.*

(f) *"Tier one vehicles" means those motor vehicles which are designated as tier one vehicles in accordance with section 202(g) of the federal Clean Air Act (42 U.S.C. § 202(g)), as that section existed on the effective date of this regulation.*

Sec.5. *1. In an area requiring a program for enhanced inspection as designated pursuant to section 2 of this regulation, the department may grant a waiver from the standards set forth in section 4 of this regulation for a motor vehicle powered by any fuel, except diesel fuel.*

2. An application for a waiver must include receipts or other evidence that at least \$450 has been spent on parts and labor directly related to the deficiency in emissions. The amount spent on expenditures must be calculated to the value of the dollar in 1989 as determined by the Consumer Price Index established by the United States Department of Labor.

3. A waiver may not be granted unless all work on the vehicle is performed by a person who is licensed in accordance with the program established pursuant to section 3 of this regulation. A waiver must be issued if the vehicle fails a retest after all qualifying repairs have been completed and the owner submits evidence that at least \$450 has been spent on parts and labor in accordance with subsection 2. A waiver issued pursuant to this section must be tracked by the department and is valid for one test cycle only.

4. The cost of testing emissions must not be included in the minimum expenditure required to obtain a waiver

pursuant to subsection 2. Any available warranty must be used to obtain the needed repairs before any expenditure may be counted towards the cost of the needed repairs. The owner of a vehicle which is within the statutory age and mileage set forth in section 207(b) of the federal Clean Air Act (42 U.S.C. § 207(b)), as that section exists on the effective date of this regulation, shall present a written denial of the warranty from the manufacturer or authorized dealer before any expenditures for repairs may be included in the cost of repairs pursuant to subsection 2.

5. A waiver may not be issued if the repairs that are required are a result of tampering. The cost of those repairs must not be included in the minimum expenditure required to obtain a waiver pursuant to subsection 2. The department may grant an exemption to this subsection if it determines that the part, or one similar to it, required to repair the vehicle is no longer available for sale.

6. The department may grant an extension of time to obtain the needed repairs on a vehicle when the requirements for a waiver cannot be met, upon receipt of proof that a valid economic hardship exists. The extension must not exceed the period of frequency of the required inspection and may be granted only once during the lifetime of the vehicle. The extension must be tracked and reported as a part of the program for enhanced inspection.

7. The department shall periodically, through public information programs and other means, inform owners and lessors of vehicles of warranties that may be available and ways to obtain repairs which are covered by the warranty of the vehicle.

END OF PETITION 94003 (LCB R147-93)